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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DARELL JACKSON, dba JED
PRODUCTIONS

Case No.:

Plaintiff,

v.

APPLE, INC., a California corporation;
NBCUNIVERSAL MEDIA, LLC, a
Delaware limited liability company;
AMBLIN ENTERTAINMENT, INC., a
California corporation; DARYL
ANDERSON and AMBER ANDERSON,
individually and doing business as
NAKAMICHE MUZIC PUBLISHING.

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT; CONTRIBUTORY
COPYRIGHT INFRINGEMENT;
SLANDER OF TITLE;
INTERFERENCE WITH
PROSPECTIVE ECONOMIC
RELATONS; FALSE DESIGNATION
OF ORIGIN; DEFAMATION PER SE;
AND DECLARATORY RELIEF**

JURY TRIAL DEMAND

Defendants.

INTRODUCTION

1. This is an action for copyright infringement seeking legal and equitable relief for the unauthorized use of Plaintiff's song "Side Show" in the Apple TV+ show "Amazing Stories." It is also an action for contributory copyright infringement, slander of title, intentional interference with prospective economic relations, false designation of origin and defamation seeking damages and injunctive relief for, *inter alia*, the unlawful acts that assisted the direct infringement of "Side Show."

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JURISDICTION AND VENUE

2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and 2201.

3. This Court has personal jurisdiction over Defendants because Plaintiff suffered harm caused by Defendants in this district, and Defendants, both in connection with the facts giving rise to this lawsuit and during the general course of their affairs, regularly conduct substantial business and have sufficient minimum contacts in Northern California where Plaintiff is based, or otherwise intentionally avail themselves of the markets within Northern California, through the national promotion, sale, and marketing of their services, to render the exercise of jurisdiction by this Court proper and necessary.

4. Venue in this jurisdiction is proper under 28 U.S.C. § 1391(b) and (c).

PARTIES

5. Plaintiff Darrell Jackson has been in the music business since the late 1980s, primarily in the City of Oakland. Plaintiff is the founder and sole owner of JED Productions, a music production company, and S&D Music, a music publishing company. Both companies are sole proprietorships and “doing business as” designations of Plaintiff. Plaintiff focused on developing and recording rap artists from the East Bay, including Richie Rich and others, commercially releasing three albums and several EPs during the early 1990s. At all relevant times, Plaintiff has operated from this District.

6. Defendant Apple, Inc. (“APPLE”) is a California corporation headquartered in this District in Cupertino, California. APPLE operates AppleTV+ and distributes Amazing Stories on that platform.

7. Defendant NBCUniversal Media, LLC (“NBCU”) is a Delaware limited liability company headquartered in Universal City, California, regularly doing business in the Northern District. On information and belief, NBCU produced Amazing Stories.

8. Defendant Amblin Entertainment, Inc. (“AMBLIN”) is a California corporation, headquartered in Universal City, California, regularly doing business in the Northern District. On information and belief, AMBLIN co-produced Amazing Stories.

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9. APPLE, NBCU and AMBLIN shall be referred to herein jointly as the “Amazing Stories Defendants.”

10. Defendant Daryl Anderson (“D. ANDERSON”) is an individual who, on information and belief, resides in Sacramento, California and regularly does business in the Northern District.

11. Defendant Amber Anderson (“A. ANDERSON”), is an individual who, on information and belief, is married to D. ANDERSON, resides in Sacramento, California, and regularly does business in the Northern District. Defendants D. and A. ANDERSON are herein referred to collectively as the “ANDERSONS.”

12. On information and belief, Defendant Nakamiche Muzic Publishing (“NAKAMICHE”) is a “doing business as” designation of the ANDERSONS. The ANDERSONS and NAKAMICHE are herein referred to jointly as the “NAKAMICHE DEFENDANTS.”

13. Plaintiff is informed and believes, and thereon alleges, that each defendant named in this complaint is in some manner responsible for the wrongs and damages as alleged below, and in so acting was functioning, at least at times, as the agent, servant, partner, alter ego and/or employee of the other defendants, and in doing and/or not doing the actions mentioned below was acting within the course and scope of his or her or its authority as such agent, servant, partner, and/or employee with the permission and consent of the other defendants. Further, all acts herein alleged were approved of and ratified by each and every other defendant.

FIRST CLAIM - COPYRIGHT INFRINGEMENT

(Against the Amazing Stories Defendants)

14. In or about 1989, Plaintiff’s company, JED Productions, produced an album called “41Fivin” by the group “415”—references to the former area code of Oakland and the East Bay. (Since then the area code has changed to 510.)

15. One of the songs on that album is “Side Show,” produced by Darrin “Digital-D” Harris and performed by Richard “Richie Rich” Serrell. The song had specific relevance to Oakland and the East Bay’s youth scene at the time (and, as made clear from Defendants’ use of

1 the song in Amazing Stories, still does). According to Wikipedia: “A sideshow is an informal
2 demonstration of automotive stunts now often held in vacant lots, and public intersections, most
3 often in the East Bay region of the San Francisco Bay Area, United States. Sideshows first
4 appeared in Oakland, California as informal social gatherings of youth. Sideshows were made
5 even more popular throughout the 1990s with such songs as bay area rapper Richie Rich’s
6 ‘Sideshow’ anthem.” [https://en.wikipedia.org/wiki/Sideshow_\(automobile_exhibition\)](https://en.wikipedia.org/wiki/Sideshow_(automobile_exhibition)).

7 16. Plaintiff, through his wholly owned production company JED Productions, owns
8 the copyrights in both the musical composition and sound recording of Side Show. Plaintiff
9 registered the copyrights with the United States Copyright Office on May 4, 1990. The
10 registration number is SRu000186832. [Exhibit 1.]

11 17. On or about March 6, 2020, the Amazing Stories Defendants released the new
12 streaming TV series “Amazing Stories.” Episode 2 of that series, “The Heat,” was released on
13 March 13, 2020, and tells a story of young people in Oakland.

14 18. The composition and sound recording of Side Show are used prominently in The
15 Heat—and appropriately from a narrative standpoint—in a scene depicting a sideshow for about
16 one and a half minutes (from 6:15 to 7:45).

17 19. At no time has Plaintiff authorized the Amazing Stories Defendants to reproduce,
18 distribute, perform, create derivative works based on, or otherwise exploit all or any portion of
19 Side Show.

20 20. The Amazing Stories Defendants’ unauthorized use constitutes infringement of
21 Plaintiff’s copyrights in both the composition and sound recording of Side Show.

22 21. Plaintiff has provided the Amazing Stories Defendants with proof of the
23 registration for Side Show and has demanded that they cease and desist from continuing to
24 infringe Plaintiff’s copyrights. These Defendants, however, continue to use Side Show in The
25 Heat.

26 22. As a result of the Amazing Stories Defendants’ copyright infringement, Plaintiff
27 has suffered and continues to suffer actual damages in an amount according to proof at trial.
28

23. As a further result of the Amazing Stories Defendants' copyright infringement, they have obtained direct and indirect profits they would not have otherwise realized but for their infringement of Side Show. Plaintiff is entitled to disgorgement of such profits.

24. Plaintiff is further entitled to statutory damages. The Amazing Stories Defendants' acts of copyright infringement have been willful and intentional and in conscious disregard of Plaintiff's rights. Plaintiff will seek damages for such willful infringement in the amount of \$150,000 per infringement, the number of infringements to be determined according to proof at trial.

25. The Amazing Stories Defendants continue to infringe Plaintiff's copyrights by streaming or otherwise copying and distributing The Heat. Accordingly, Plaintiff is entitled to injunctive relief, preventing the Amazing Stories Defendants from continuing to unlawfully exploit Side Show.

26. Plaintiff is further entitled to recover his reasonable attorneys' fees and costs in this action.

SECOND CLAIM - CONTRIBUTORY COPYRIGHT INFRINGEMENT

(Against the NAKAMICHE DEFENDANTS)

27. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

28. Plaintiff is informed and believes that, beginning sometime after Plaintiff registered the copyrights in Side Show and continuing thereafter, the NAKAMICHE DEFENDANTS falsely represented and continue to falsely represent that they own the copyright in the composition and the sound recording of Side Show, including by, *inter alia*, falsely and publicly registering the composition as their own with ASCAP.

29. Plaintiff is informed and believes that, beginning sometime after Plaintiff registered the copyrights in Side Show and continuing thereafter, the NAKAMICHE DEFENDANTS have falsely represented and continue to falsely represent to third parties that they own the copyrights in Side Show, including by, *inter alia*, falsely representing to the

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1 Amazing Stories Defendants that the NAKAMICHE DEFENDANTS own the copyrights in
2 Side Show and fraudulently licensing the use of Side Show to the Amazing Stories Defendants.

3 30. Plaintiff is informed and believes that the NAKAMICHE DEFENDANTS have
4 also falsely represented to the producers of the film “Stop Pepper Palmer” that they owned the
5 copyrights in Side Show, and fraudulently licensed Side Show to them for use in that film.

6 31. Plaintiff is informed and believes that the NAKAMICHE DEFENDANTS intend
7 to further unlawfully exploit Side Show by distributing it digitally in 2020.

8 32. The NAKAMICHE DEFENDANTS had knowledge of the Amazing Stories
9 Defendants’ infringing activity as described hereinabove.

10 33. The NAKAMICHE DEFENDANTS’ false representations to ASCAP and to the
11 Amazing Stories Defendants as described herein induced, caused, or materially contributed to
12 the Amazing Stories Defendants’ infringing conduct.

13 34. Plaintiff has provided the NAKAMICHE DEFENDANTS with proof of the
14 registration for Side Show and has demanded they cease and desist from continuing to
15 contribute to the infringement of Plaintiff’s copyrights. These Defendants, however, continue to
16 represent to the public through their ASCAP registration that they own rights in Side Show and
17 on information and belief continue to represent to the Amazing Stories Defendants that they own
18 rights in Side Show.

19 35. As a result of the NAKAMICHE DEFENDANTS’ contributory copyright
20 infringement, Plaintiff has suffered and continues to suffer actual damages in an amount
21 according to proof at trial.

22 36. As a further result of the NAKAMICHE DEFENDANTS’ contributory copyright
23 infringement, they have obtained direct and indirect profits they would not have otherwise
24 realized but for their contributory infringement of Side Show. Plaintiff is entitled to
25 disgorgement of such profits.

26 37. Plaintiff is further entitled to statutory damages. The NAKAMICHE
27 DEFENDANTS’ acts of contributory copyright infringement have been willful and intentional
28 and in conscious disregard of Plaintiff’s rights. Plaintiff will seek such damages for willful

1 infringement in the amount of \$150,000 per infringement, the number of infringements to be
2 determined according to proof at trial.

3 38. The NAKAMICHE DEFENDANTS continue to contribute to the infringement of
4 Plaintiff's copyrights. Accordingly, Plaintiff is entitled to injunctive relief ordering them to
5 cease their contributory infringement of Side Show.

6 39. Plaintiff is further entitled to recover his reasonable attorneys' fees and costs in
7 this action.

8 **THIRD CLAIM – SLANDER OF TITLE**

9 **(Against the NAKAMICHE DEFENDANTS)**

10 40. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
11 though fully set forth herein.

12 41. The NAKAMICHE DEFENDANTS made representations and statements (e.g.,
13 through falsely and publicly registering Side Show as their own with ASCAP and by
14 representing to the Amazing Stories Defendants and the producers of Stop Pepper Palmer that
15 the NAKAMICHE DEFENDANTS owned any copyright in Side Show) which cast doubts
16 about Plaintiff's ownership of those copyrights.

17 42. These representations and statements were false, as Plaintiff does in fact own the
18 copyrights in Side Show, and the NAKAMICHE DEFENDANTS have no ownership interest in
19 that intellectual property.

20 43. At the time the NAKAMICHE DEFENDANTS made these statements and
21 representations, they knew that Plaintiff owned Side Show, and/or acted with reckless disregard
22 of the truth.

23 44. The NAKAMICHE DEFENDANTS had no reasonable grounds to believe that
24 the representations and statements they made to ASCAP, the Amazing Stories Defendants and
25 others concerning their ownership of any copyright in Side Show were true.

26 45. The NAKAMICHE DEFENDANTS' representations and statements were made
27 for the purposes of inducing the general public, the Amazing Stories Defendants, and/or other
28 entities in the music business to believe that the NAKAMICHE DEFENDANTS own Plaintiff's

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1 intellectual property when they do not in fact own it and to usurp business opportunities from
 2 Plaintiff for themselves.

3 46. The NAKAMICHE DEFENDANTS knew or should have recognized that
 4 someone else might act in reliance on these false representations and statements, causing
 5 Plaintiff financial loss.

6 47. Plaintiff did in fact suffer immediate and direct financial harm because the
 7 Amazing Stories Defendants and the producers of Stop Pepper Palmer acted in reliance on these
 8 false representations and statements and therefore did not seek authorization from or compensate
 9 Plaintiff for the exploitation of Side Show.

10 48. The NAKAMICHE DEFENDANTS' conduct was the legal and proximate cause
 11 of Plaintiff's harms and/or was a substantial factor in causing Plaintiff's harms.

12 49. Plaintiff also suffered pecuniary loss because the NAKAMICHE
 13 DEFENDANTS' false and public ASCAP registration deprived Plaintiff of a market in which,
 14 but for that false registration, Plaintiff might with reasonable certainty have found a purchaser or
 15 licensee for Side Show. Plaintiff is entitled to compensatory damages for this harm.

16 50. Plaintiff has also suffered and continues to suffer damages resulting from the loss
 17 of a license fee and/or royalties for the exploitation of Side Show by the Amazing Stories
 18 Defendants and others. On information and belief, the NAKAMICHE DEFENDANTS have
 19 received license fee and have been receiving and/or will receive royalties which rightfully
 20 belong to Plaintiff, and Plaintiff is entitled to restitution and disgorgement of any such proceeds.

21 51. Plaintiff is presently suffering and will continue to suffer additional pecuniary
 22 losses in the form of his attorneys' fees and costs, which were rendered necessary in order to
 23 remedy the doubt cast on Plaintiff's title by the NAKAMICHE DEFENDANTS' false
 24 representations and statements. Plaintiff is entitled to recover these losses.

25 52. The NAKAMICHE DEFENDANTS' conduct as described herein was
 26 fraudulent, malicious, and oppressive and Plaintiff is therefore entitled to punitive and
 27 exemplary damages pursuant to Cal. Civ. Code § 3294 *et seq.*
 28

53. The NAKAMICHE DEFENDANTS continue to slander Plaintiff's title to the Side Show composition by falsely asserting, through the publicly-available and searchable ASCAP repertoire (<https://www.ascap.com/repertory>), that they own the publishing rights in Side Show. Accordingly, Plaintiff is entitled to injunctive relief ordering the NAKAMICHE DEFENDANTS to remove their false ASCAP registration.

54. Upon information and belief, the NAKAMICHE DEFENDANTS have slandered and continue to slander Plaintiff's title to Side Show by falsely maintaining to the Amazing Stories Defendants that the NAKAMICHE DEFENDANTS own the copyrights in Side Show. Accordingly, Plaintiff is entitled to injunctive relief ordering the NAKAMICHE DEFENDANTS to cease and desist from claiming they own any copyrights in Side Show.

**FOURTH CLAIM – INTENTIONAL INTERFERENCE WITH PROSPECTIVE
ECONOMIC RELATIONS**

(Against the NAKAMICHE DEFENDANTS)

55. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

56. Plaintiff, as the owner of the composition and sound recording copyrights in Side Show and other music, regularly transacts business in the marketplace for exploitation of music copyrights by third parties such as the Amazing Stories Defendants. That is, when a third party seeks to exploit music copyrights such as those in Side Show, it first seeks the requisite permissions from the copyright owner(s). This requires some basic repertoire research by the third party, e.g., into the identity of the true copyright owner(s) on ASCAP's or another performing rights society's website.

57. The Amazing Stories Defendants sought to and did exploit the Side Show composition and sound recording copyrights. Those copyrights are owned by Plaintiff, and therefore third parties such as the Amazing Stories Defendants who must seek and obtain authorization for any exploitation and Plaintiff were and are in an economic relationship.

58. This economic relationship between the Amazing Stories Defendants and Plaintiff probably would have resulted in future economic benefit to Plaintiff.

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1 59. The NAKAMICHE DEFENDANTS knew or should have known of this
2 relationship.

3 60. The NAKAMICHE DEFENDANTS knew or should have known that this
4 relationship between Plaintiff and the Amazing Stories Defendants would be disrupted if they
5 failed to act with reasonable care and yet Defendants D. ANDERSON and NAKAMICHE failed
6 to act with reasonable care.

7 61. The NAKAMICHE DEFENDANTS engaged in wrongful conduct by
8 misrepresenting to the Amazing Stories Defendants that Plaintiff did not own any rights in Side
9 Show and that only the NAKAMICHE DEFENDANTS had the right to grant permission to
10 exploit the work and to negotiate and exact a price for its exploitation. The NAKAMICHE
11 DEFENDANTS knew these representations were false or made them with reckless disregard for
12 their truth or falsity. The NAKAMICHE DEFENDANTS intended the Amazing Stories
13 Defendants to rely on, and the Amazing Stories Defendants did reasonably rely on, these
14 fraudulent misrepresentations.

15 62. The NAKAMICHE DEFENDANTS also engaged in wrongful conduct by
16 slandering Plaintiff's title to the copyright in the Side Show composition, as described
17 hereinabove.

18 63. The NAKAMICHE DEFENDANTS also engaged in wrongful conduct by
19 contributing to the Amazing Stories Defendants' direct infringement of Plaintiff's copyrights in
20 Side Show, as described hereinabove.

21 64. The prospective relationship between the Amazing Stories Defendants and
22 Plaintiff, the true owner of the Side Show copyrights, was disrupted.

23 65. Plaintiff was harmed as a result.

24 66. The NAKAMICHE DEFENDANTS' wrongful conduct was the legal and
25 proximate cause of Plaintiff's harm and/or was a substantial factor in causing Plaintiff's harm.

26 67. As a result of the NAKAMICHE DEFENDANTS' wrongful conduct, Plaintiff
27 has sustained damages in the form of lost profits for the exploitation of the Side Show
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1 composition and has sustained special damages in the form of emotional distress. Plaintiff is
2 entitled to recover these damages in an amount according to proof at trial.

3 68. In addition to these damages, Plaintiff is entitled to restitution in the form of
4 disgorgement of the NAKAMICHE DEFENDANTS' unjust enrichment from the unlawful
5 exploitation of Plaintiff's copyright.

6 69. The NAKAMICHE DEFENDANTS' conduct as described herein was
7 fraudulent, malicious, and oppressive and Plaintiff is therefore entitled to punitive and
8 exemplary damages pursuant to Cal. Civ. Code § 3294 *et seq.*

9 70. As an alternative to monetary judgment, Plaintiff is entitled to a constructive trust
10 or equitable lien on any property obtained by the NAKAMICHE DEFENDANTS as a result of
11 their interference with Plaintiff's prospective economic advantage.

12 71. Finally, Plaintiff is entitled to an injunction against the NAKAMICHE
13 DEFENDANTS to prevent future interference.

14 **FIFTH CLAIM – FALSE DESIGNATION OF ORIGIN**

15 **(Against the NAKAMICHE DEFENDANTS)**

16 72. Plaintiff re-alleges and incorporates by reference the foregoing allegations as
17 though fully set forth herein.

18 73. The NAKAMICHE DEFENDANTS' conduct constitutes false designation of
19 origin in violation of 15 U.S.C. § 1125(a), which provides that, *inter alia*, "[a]ny person who . . .
20 in connection with any goods or services . . . uses in commerce . . . any false designation of
21 origin, false or misleading description of fact, or false or misleading representation of fact,
22 which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation,
23 connection, or association of such person with another person, or as to the origin, sponsorship,
24 or approval of his or her goods, services, or commercial activities by another person . . . shall be
25 liable in a civil action by any person who believes that he or she is or is likely to be damaged by
26 such act."

27 74. By representing through their ASCAP registration and in their communications
28 with the Amazing Stories Defendants that they own or control rights to the Side Show

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composition, the NAKAMICHE DEFENDANTS used and continue to use in commerce false and misleading representations of fact in connection with Side Show and/or their publishing services for same.

75. These false and misleading representations of fact were likely to cause confusion, or mistake, or to deceive as to the affiliation, connection, or association of the NAKAMICHE DEFENDANTS with Plaintiff (the true owner of the Side Show composition) and/or Richie Rich and Darren Harris (the true original composers of Side Show).

76. These false and misleading representations of fact were likely to cause confusion, or mistake, or to deceive as to the origin, sponsorship, or approval of the NAKAMICHE DEFENDANTS' goods, services, or commercial activities by Plaintiff and/or Richie Rich and Darren Harris.

77. These false and misleading representations of fact were made willfully and with knowledge of the falsity of such representations and for the purpose of causing confusion or mistake or to deceive consumers as described above.

78. Plaintiff has been damaged by and will continue to be damaged by the NAKAMICHE DEFENDANTS' conduct and is entitled to recover their profits, up to three times any and all actual damages sustained by Plaintiff, and costs of this action pursuant to 15 U.S.C. § 1117(a).

79. In addition, Plaintiff requests an award of his reasonable attorneys' fees under 15 U.S.C. § 1117(a) because this is an exceptional case.

SIXTH CLAIM – DEFAMATION PER SE

(Against A. ANDERSON)

80. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

81. On information and belief, defendant A. ANDERSON communicated and represented to the Amazing Stories Defendants that Plaintiff has a history of making false and fraudulent claims of ownership of copyrights in 415 music and that Plaintiff fraudulently extracted an advance of \$140,000 from Capitol Records by falsely asserting his ownership of

1 certain copyrights in 415's music. These representations are false and unprivileged and exposed
2 Plaintiff to hatred, contempt, ridicule, or obloquy, caused Plaintiff to be shunned or avoided by
3 others, and have a tendency to injure him in his occupation.

4 82. The Amazing Stories Defendants reasonably understood that the statements A.
5 ANDERSON made were about Plaintiff.

6 83. The Amazing Stories Defendants reasonably understood the statements
7 Defendant A. ANDERSON made to mean that Plaintiff had committed a crime.

8 84. In addition, the statements Defendant A. ANDERSON made tended to injure
9 Plaintiff in respect to his profession, trade or business by imputing fraudulent and/or criminal
10 conduct to Plaintiff in the course of his business dealings which has a natural tendency to lessen
11 Plaintiff's profits by discouraging others to transact business with him.

12 85. In addition, Defendant A. ANDERSON's statements to the Amazing Stories
13 Defendants by natural consequence caused actual damages to Plaintiff, who has had to and will
14 continue to expend time and resources to attempt to rehabilitate his reputation.

15 86. Defendant A. ANDERSON failed to use reasonable care to determine the truth or
16 falsity of these defamatory statements, and/or and knew the statements were false or made with
17 reckless disregard for their truth or falsity.

18 87. Defendant A. ANDERSON's wrongful conduct was a substantial factor in
19 causing harm to Plaintiff's business, profession, and occupation; causing Plaintiff to incur
20 expenses as a result of the defamatory statements; causing harm to Plaintiff's reputation; and
21 causing Plaintiff to feel shame, mortification, and hurt feelings. Plaintiff is entitled to recover
22 these actual damages in an amount to be proven at trial.

23 88. In addition to or instead of actual damages, Plaintiff is entitled to presumed
24 damages in an amount reasonable to compensate him for the presumed harm he has suffered.

25 89. Because in making these false and defamatory statements Defendant A.
26 ANDERSON acted with malice, oppression, and fraud, Plaintiff is also entitled to punitive and
27 exemplary damages.
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90. Finally, because her defamatory statements relate to Plaintiff's business activities and damage his professional reputation, Plaintiff is entitled to an injunction against Defendant A. ANDERSON ordering her to retract her false and defamatory statements.

SEVENTH CLAIM – DECLARATORY RELIEF

(Against All Defendants)

91. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though fully set forth herein.

92. On information and belief, Defendants contest and dispute Plaintiff's ownership of the composition copyright in Side Show and Plaintiff's ownership of the sound recording copyright for the master recording Defendants used in The Heat.

93. Pursuant to 28 U.S.C. § 2201(a), Plaintiff hereby seeks and requests that this Court declare the copyrights in and to the sound recording and composition at issue belong exclusively to Plaintiff and that such declaration have the force and effect of a final judgment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. That all Defendants and their agents and servants be enjoined from infringing, or contributing to the infringement of, Plaintiff's copyrights in any manner whatsoever, including, but not limited to, the use of Side Show in The Heat;

2. That the NAKAMICHE DEFENDANTS be enjoined from claiming that they own all or any part of the copyrights in Side Show;

3. The Defendant A. ANDERSON be enjoined from defaming Plaintiff;

4. That Plaintiff be awarded actual damages for copyright infringement in an amount to be determined at trial;

5. That Plaintiff be awarded up to three times his actual damages for false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1125, in an amount to be determined at trial;

6. That Plaintiff be awarded all other actual damages arising in any manner from Defendants' acts and omissions as described hereinabove;

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1 7. That Defendants account to Plaintiff for their profits and pay to Plaintiff all
2 profits attributable to the infringement;

3 8. That Plaintiff be awarded statutory damages in the amount of \$150,000 per
4 infringement of its copyright or such other amount as may be determined at trial;

5 9. That Plaintiff be awarded reasonable litigation expenses, costs, and attorneys'
6 fees;

7 10. That Plaintiff be awarded punitive damages against the NAKAMICHE
8 DEFENDANTS for slander of title and intentional interference with prospective economic
9 relations;

10 11. That Plaintiff be awarded punitive damages against A. ANDERSON for
11 defamation per se;

12 12. That A. ANDERSON be ordered to retract her false and defamatory statements;

13 13. That Plaintiff be awarded presumed damages;

14 14. That a constructive trust or equitable lien be placed on any property obtained by
15 the NAKAMICHE DEFENDANTS as a result of their interference with Plaintiff's prospective
16 economic advantage;

17 15. That Plaintiff be awarded restitution and disgorgement of Defendants' unjust
18 enrichment in an amount to be proven at trial;

19 16. That Plaintiff be awarded special damages in an amount to be proven at trial;

20 17. That Plaintiff be awarded the lost profits he would have received but for
21 Defendants' unlawful exploitation of Side Show without his consent;

22 18. That Plaintiff be awarded pre- and post-judgment interest, to the maximum extent
23 allowable by law;

24 19. That the Court declare the copyrights in and to the sound recording and
25 composition of Side Show used in The Heat belong exclusively to Plaintiff and that such
26 declaration have the force and effect of a final judgment; and
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28

20. Such other and further relief as equity and justice may require.

Dated: May 12, 2020

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By: /s/ Nicholas A. Carlin
Nicholas A. Carlin
Kyle P. O'Malley
Attorneys for Plaintiff

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues so triable

Dated: May 12, 2020

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Kyle P. O'Malley
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